

# HOUSE BILL No. 1776

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.5-7-13.6; IC 36-7-14-39.

**Synopsis:** Use of tax increment finance revenue. Allows the transfer of money from a county or municipal tax increment finance allocation fund to the unit's local venture capital fund.

**Effective:** Upon passage.

**Stemler**

January 26, 2007, read first time and referred to Committee on Ways and Means.

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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## HOUSE BILL No. 1776

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A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 6-3.5-7-13.6, AS ADDED BY P.L.137-2006,  
2 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 13.6. (a) The fiscal body of a county or  
4 municipality may, by resolution, establish a local venture capital fund.  
5 (b) A unit establishing a local venture capital fund under subsection  
6 (a) may deposit the following in the fund:  
7 (1) Taxes distributed to the unit under this chapter.  
8 (2) The proceeds of public or private grants.  
9 (3) **Money transferred from an allocation fund of the unit**  
10 **under IC 36-7-14-39(b)(2)(L).**  
11 (c) A local venture capital fund shall be administered by a  
12 governing board. The expenses of administering the fund shall be paid  
13 from money in the fund. The governing board shall invest the money  
14 in the fund not currently needed to meet the obligations of the fund in  
15 the same manner as other public money may be invested. Interest that  
16 accrues from these investments shall be deposited into the fund. The  
17 fund is subject to an annual audit by the state board of accounts. The



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fund shall bear the full costs of the audit.

(d) The fiscal body of a unit establishing a local venture capital fund under subsection (a) shall establish the terms for the administration of the local venture capital fund. The terms must include the following:

- (1) The membership of the governing board.
- (2) The amount of the unit's contribution to the fund.
- (3) The procedures and criteria under which the governing board may loan or grant money from the fund.
- (4) The procedures for the dissolution of the fund and for the distribution of money remaining in the fund at the time of the dissolution.

(e) A unit establishing a local venture capital fund under subsection (a) must be represented by at least one (1) member of the governing board.

(f) The membership of the governing board must be established on a bipartisan basis so that the number of the members of the governing board who are members of one (1) political party may not exceed the number of members of the governing board required to establish a quorum.

(g) A majority of the governing board constitutes a quorum, and the concurrence of a majority of the governing board is necessary to authorize any action.

(h) The terms established under subsection (d) for the administration of the local venture capital fund must be submitted to the Indiana economic development corporation for approval before a unit may contribute to the fund.

(i) A majority of members of a governing board of a local venture capital fund established under this section must have at least five (5) years of experience in business, finance, or venture capital.

(j) The governing board of the fund may loan or grant money from the fund to a private or public entity if the governing board finds that the loan or grant will be used by the borrower or grantee for at least one (1) of the following economic development purposes:

- (1) To promote significant employment opportunities for the residents of the unit establishing the local venture capital fund.
- (2) To attract a major new business enterprise to the unit.
- (3) To develop, retain, or expand a significant business enterprise in the unit.

(k) The expenditures of a borrower or grantee of money from a local venture capital fund that are considered to be for an economic development purpose include expenditures for any of the following:

- (1) Research and development of technology.

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- (2) Job training and education.
- (3) Acquisition of property interests.
- (4) Infrastructure improvements.
- (5) New buildings or structures.
- (6) Rehabilitation, renovation, or enlargement of buildings or structures.
- (7) Machinery, equipment, and furnishings.
- (8) Funding small business development with respect to:
  - (A) prototype products or processes;
  - (B) marketing studies to determine the feasibility of new products or processes; or
  - (C) business plans for the development and production of new products or processes.

SECTION 2. IC 36-7-14-39, AS AMENDED BY P.L.154-2006, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 39. (a) As used in this section:

"Allocation area" means that part of a redevelopment project area to which an allocation provision of a declaratory resolution adopted under section 15 of this chapter refers for purposes of distribution and allocation of property taxes.

"Base assessed value" means the following:

- (1) If an allocation provision is adopted after June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing an economic development area:

- (A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

- (B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

- (2) If an allocation provision is adopted after June 30, 1997, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area:

- (A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

- (B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential

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property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(3) If:

(A) an allocation provision adopted before June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area expires after June 30, 1997; and

(B) after June 30, 1997, a new allocation provision is included in an amendment to the declaratory resolution;

the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision adopted after June 30, 1997, as adjusted under subsection (h).

(4) Except as provided in subdivision (5), for all other allocation areas, the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h).

(5) If an allocation area established in an economic development area before July 1, 1995, is expanded after June 30, 1995, the definition in subdivision (1) applies to the expanded part of the area added after June 30, 1995.

(6) If an allocation area established in a redevelopment project area before July 1, 1997, is expanded after June 30, 1997, the definition in subdivision (2) applies to the expanded part of the area added after June 30, 1997.

Except as provided in section 39.3 of this chapter, "property taxes" means taxes imposed under IC 6-1.1 on real property. However, upon approval by a resolution of the redevelopment commission adopted before June 1, 1987, "property taxes" also includes taxes imposed under IC 6-1.1 on depreciable personal property. If a redevelopment commission adopted before June 1, 1987, a resolution to include within the definition of property taxes taxes imposed under IC 6-1.1 on depreciable personal property that has a useful life in excess of eight (8) years, the commission may by resolution determine the percentage of taxes imposed under IC 6-1.1 on all depreciable personal property that will be included within the definition of property taxes. However, the percentage included must not exceed twenty-five percent (25%) of the taxes imposed under IC 6-1.1 on all depreciable personal property.

(b) A declaratory resolution adopted under section 15 of this chapter on or before the allocation deadline determined under subsection (i)

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may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A declaratory resolution previously adopted may include an allocation provision by the amendment of that declaratory resolution on or before the allocation deadline determined under subsection (i) in accordance with the procedures required for its original adoption. A declaratory resolution or an amendment that establishes an allocation provision after June 30, 1995, must specify an expiration date for the allocation provision that may not be more than thirty (30) years after the date on which the allocation provision is established. However, if bonds or other obligations that were scheduled when issued to mature before the specified expiration date and that are payable only from allocated tax proceeds with respect to the allocation area remain outstanding as of the expiration date, the allocation provision does not expire until all of the bonds or other obligations are no longer outstanding. The allocation provision may apply to all or part of the redevelopment project area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value; shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivision (1) shall be allocated to the redevelopment district and, when collected, paid into an allocation fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

(A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds which are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.

(C) Pay the principal of and interest on bonds payable from

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1 allocated tax proceeds in that allocation area and from the  
2 special tax levied under section 27 of this chapter.

3 (D) Pay the principal of and interest on bonds issued by the  
4 unit to pay for local public improvements in or serving that  
5 allocation area.

6 (E) Pay premiums on the redemption before maturity of bonds  
7 payable solely or in part from allocated tax proceeds in that  
8 allocation area.

9 (F) Make payments on leases payable from allocated tax  
10 proceeds in that allocation area under section 25.2 of this  
11 chapter.

12 (G) Reimburse the unit for expenditures made by it for local  
13 public improvements (which include buildings, parking  
14 facilities, and other items described in section 25.1(a) of this  
15 chapter) in or serving that allocation area.

16 (H) Reimburse the unit for rentals paid by it for a building or  
17 parking facility in or serving that allocation area under any  
18 lease entered into under IC 36-1-10.

19 (I) Pay all or a part of a property tax replacement credit to  
20 taxpayers in an allocation area as determined by the  
21 redevelopment commission. This credit equals the amount  
22 determined under the following STEPS for each taxpayer in a  
23 taxing district (as defined in IC 6-1.1-1-20) that contains all or  
24 part of the allocation area:

25 STEP ONE: Determine that part of the sum of the amounts  
26 under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2),  
27 IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and  
28 IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

29 STEP TWO: Divide:

30 (i) that part of each county's eligible property tax  
31 replacement amount (as defined in IC 6-1.1-21-2) for that  
32 year as determined under IC 6-1.1-21-4 that is attributable  
33 to the taxing district; by

34 (ii) the STEP ONE sum.

35 STEP THREE: Multiply:

36 (i) the STEP TWO quotient; times

37 (ii) the total amount of the taxpayer's taxes (as defined in  
38 IC 6-1.1-21-2) levied in the taxing district that have been  
39 allocated during that year to an allocation fund under this  
40 section.

41 If not all the taxpayers in an allocation area receive the credit  
42 in full, each taxpayer in the allocation area is entitled to

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1 receive the same proportion of the credit. A taxpayer may not  
 2 receive a credit under this section and a credit under section  
 3 39.5 of this chapter in the same year.

4 (J) Pay expenses incurred by the redevelopment commission  
 5 for local public improvements that are in the allocation area or  
 6 serving the allocation area. Public improvements include  
 7 buildings, parking facilities, and other items described in  
 8 section 25.1(a) of this chapter.

9 (K) Reimburse public and private entities for expenses  
 10 incurred in training employees of industrial facilities that are  
 11 located:

12 (i) in the allocation area; and

13 (ii) on a parcel of real property that has been classified as  
 14 industrial property under the rules of the department of local  
 15 government finance.

16 However, the total amount of money spent for this purpose in  
 17 any year may not exceed the total amount of money in the  
 18 allocation fund that is attributable to property taxes paid by the  
 19 industrial facilities described in this clause. The  
 20 reimbursements under this clause must be made within three  
 21 (3) years after the date on which the investments that are the  
 22 basis for the increment financing are made.

23 **(L) Transfer money to the local venture capital fund of the**  
 24 **unit established under IC 6-3.5-7-13.6.**

25 The allocation fund may not be used for operating expenses of the  
 26 commission.

27 (3) Except as provided in subsection (g), before July 15 of each  
 28 year the commission shall do the following:

29 (A) Determine the amount, if any, by which the base assessed  
 30 value when multiplied by the estimated tax rate of the  
 31 allocation area will exceed the amount of assessed value  
 32 needed to produce the property taxes necessary to make, when  
 33 due, principal and interest payments on bonds described in  
 34 subdivision (2) plus the amount necessary for other purposes  
 35 described in subdivision (2).

36 (B) Notify the county auditor of the amount, if any, of the  
 37 amount of excess assessed value that the commission has  
 38 determined may be allocated to the respective taxing units in  
 39 the manner prescribed in subdivision (1). The commission  
 40 may not authorize an allocation of assessed value to the  
 41 respective taxing units under this subdivision if to do so would  
 42 endanger the interests of the holders of bonds described in

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1 subdivision (2) or lessors under section 25.3 of this chapter.

2 (c) For the purpose of allocating taxes levied by or for any taxing  
3 unit or units, the assessed value of taxable property in a territory in the  
4 allocation area that is annexed by any taxing unit after the effective  
5 date of the allocation provision of the declaratory resolution is the  
6 lesser of:

- 7 (1) the assessed value of the property for the assessment date with  
8 respect to which the allocation and distribution is made; or  
9 (2) the base assessed value.

10 (d) Property tax proceeds allocable to the redevelopment district  
11 under subsection (b)(2) may, subject to subsection (b)(3), be  
12 irrevocably pledged by the redevelopment district for payment as set  
13 forth in subsection (b)(2).

14 (e) Notwithstanding any other law, each assessor shall, upon  
15 petition of the redevelopment commission, reassess the taxable  
16 property situated upon or in, or added to, the allocation area, effective  
17 on the next assessment date after the petition.

18 (f) Notwithstanding any other law, the assessed value of all taxable  
19 property in the allocation area, for purposes of tax limitation, property  
20 tax replacement, and formulation of the budget, tax rate, and tax levy  
21 for each political subdivision in which the property is located is the  
22 lesser of:

- 23 (1) the assessed value of the property as valued without regard to  
24 this section; or  
25 (2) the base assessed value.

26 (g) If any part of the allocation area is located in an enterprise zone  
27 created under IC 5-28-15, the unit that designated the allocation area  
28 shall create funds as specified in this subsection. A unit that has  
29 obligations, bonds, or leases payable from allocated tax proceeds under  
30 subsection (b)(2) shall establish an allocation fund for the purposes  
31 specified in subsection (b)(2) and a special zone fund. Such a unit  
32 shall, until the end of the enterprise zone phase out period, deposit each  
33 year in the special zone fund any amount in the allocation fund derived  
34 from property tax proceeds in excess of those described in subsection  
35 (b)(1) from property located in the enterprise zone that exceeds the  
36 amount sufficient for the purposes specified in subsection (b)(2) for the  
37 year. The amount sufficient for purposes specified in subsection (b)(2)  
38 for the year shall be determined based on the pro rata portion of such  
39 current property tax proceeds from the part of the enterprise zone that  
40 is within the allocation area as compared to all such current property  
41 tax proceeds derived from the allocation area. A unit that has no  
42 obligations, bonds, or leases payable from allocated tax proceeds under

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subsubsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund (based on the recommendations of the urban enterprise association) for programs in job training, job enrichment, and basic skill development that are designed to benefit residents and employers in the enterprise zone or other purposes specified in subsection (b)(2), except that where reference is made in subsection (b)(2) to allocation area it shall refer for purposes of payments from the special zone fund only to that part of the allocation area that is also located in the enterprise zone. Those programs shall reserve at least one-half (1/2) of their enrollment in any session for residents of the enterprise zone.

(h) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the redevelopment district under this section. After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the redevelopment district under this section. However, the adjustments under this subsection may not include the effect of property tax abatements under IC 6-1.1-12.1, and these adjustments may not produce less property tax proceeds allocable to the redevelopment district under subsection (b)(2) than would otherwise have been received if the general reassessment or annual adjustment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

(i) The allocation deadline referred to in subsection (b) is determined in the following manner:

- (1) The initial allocation deadline is December 31, 2011.
- (2) Subject to subdivision (3), the initial allocation deadline and subsequent allocation deadlines are automatically extended in increments of five (5) years, so that allocation deadlines subsequent to the initial allocation deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.
- (3) At least one (1) year before the date of an allocation deadline

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1 determined under subdivision (2), the general assembly may enact  
2 a law that:

3 (A) terminates the automatic extension of allocation deadlines  
4 under subdivision (2); and

5 (B) specifically designates a particular date as the final  
6 allocation deadline.

7 **SECTION 3. An emergency is declared for this act.**

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